

from the catnip is caused to permeate through the gas permeable pouch and gas permeable top fabric.

Regarding claim 2, the Examiner alleges that the reference teaches a gas permeable pouch containing catnip located between the resilient compressible fill material and top fabric relying upon Figure 5 for such disclosure.

Regarding claims 8 and 9, the Examiner has taken the position that Ford inherently teaches that the top fabric is depressed by the weight of a cat using the pet bed noting that scent from the catnip is caused to permeate through the gas permeable pouch and gas permeable top surface when the gas permeable pouch is squeezed, and as a result, scent from the catnip is caused to permeate through the gas permeable pouch and gas permeable gas surface when the animal is present on top of the bed.

Claims 3-7 stand rejected under 35 U.S.C. Section 103(a) again in reliance upon Ford. Specifically, the Examiner notes that Ford is silent on the gas permeable pouch having catnip located beneath the resilient compressible fill material but concludes that it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely the shifting location of a known element performing these same intended function and does not represent a patentably distinct limitation.

Regarding claims 5 and 7, the Examiner has “modified” the teachings of the gas permeable pouch noting its selective attachment to the interior surface of the top fabric is taught in Fig. 5.

Regarding claim 6, the Examiner notes that Ford teaches that hook and loop fasteners are known means of securing things in place but is silent on the gas permeable

pouch being selectively attachable to the interior surface of the top fabric by such an attachment means. However, the Examiner concludes that it would be obvious to one of ordinary skill in the art to modify the teachings of Ford with the known fastening means to prevent the catnip from being undesirably displaced.

Finally, regarding claim 4, although the Examiner acknowledges that Ford is silent on the gas permeable pouch having a closable opening so that catnip can be periodically refilled, it is concluded that it is notoriously well known to provide recyclable pouches as an environmentally sound practice to reduce waste.

Notwithstanding the conclusions reached by the Examiner, there is not a single suggestion in Ford to place a pouch containing catnip beneath a gas permeable fabric or to provide a closable opening in an outer shell fabric allowing for selective access to the interior of the outer shell fabric for placement of a gas permeable pouch containing catnip. There is further not a single suggestion of placing the gas permeable pouch containing catnip between the resilient compressible fill material of the pet bed and the shell fabric either at the top of the compressible fill material or beneath the compressible fill material as suggested alternatively by claims 2 and 3.

It is quite evident that Ford teaches placing a pouch of scented material, which could be catnip, in a pocket of an outer shell material configured in the shape of a pair of human shorts. As such, the pouch of scented material is placed between two layers of outer shell material and not between outer shell material and the requisite resilient compressible fill material. Although this distinction may seem trivial, it is significant in practicing the claimed invention. Specifically, cats tend to become quite agitated and excited when confronted with a source of catnip. A cat will stop at almost no length to

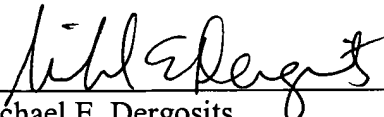
reach the catnip although it is odor emanating from the catnip and not the catnip leaf itself which provides the observed catnip response. By placing the pouch of catnip beneath the outer shell fabric and between the outer shell fabric and the resilient fill material, one is able to generate the desired catnip response by causing catnip odors to pass through the outer shell fabric when the cat has compressed the pet bed by residing upon it with its body weight while ensuring that short of destroying the outer shell fabric, the cat will be unable to reach the catnip under any and all circumstances.

By contrast, Ford teaches placing a pouch of a scented material within a pocket of the outer shell shorts between layers of outer shell material. Not only does this not literally meet the limitations of the claims and thus fails to represent an anticipatory reference under 35 U.S.C. Section 102, but further fails to render the present invention obvious. By placing a scented pouch within the opened pocket of a pair of human shorts, one is not presenting a very substantial obstacle to a cat driven by a catnip response from pawing the interior of the pocket and gaining direct physical access to the catnip pouch which could be quite detrimental to the health of a cat. There is no suggestion in Ford that the pocket be closable or that any attempt be made to restrict access to the pocket by a cat intent upon gaining access to the interior pocket region. This should come as no great surprise for although Ford mentions, in passing, catnip is a possible "scented material" that can be employed, it is not the thrust of Ford to provide a bed generating a catnip response. Instead, it is the intent of Ford to simply provide a pet bed in the shape of a human lap which may contain a scented material of one of many varieties.

For the reasons advanced above, it is respectfully asserted that the present application is in condition for allowance and such disposition is earnestly solicited.

Respectfully submitted,
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